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August 24, 2018

**VIA ELECTRONIC FILING**

The Honorable Jocelyn G. Boyd  
Chief Clerk/Administrator  
Public Service Commission of South Carolina  
101 Executive Center Drive, Suite 100  
Columbia, South Carolina 29210

**Re: Petition Duke Energy Carolinas LLC and Duke Energy Progress, LLC  
for Approval of CRPE Queue Number Proposal, Limited Waiver of  
Generator Interconnection Procedures, and Request for Expedited  
Review  
Docket Number 2018-202-E**

Dear Ms. Boyd:

Enclosed for filing on behalf of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC, please find Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Objection to Interstate Renewable Energy Council, Inc.'s Petition to Intervene. By copy of this letter I am serving all parties of record via electronic mail.

Should you have any questions regarding this matter, please do not hesitate to contact me at 803.988.7130.

Sincerely,

Rebecca J. Dulin

Enclosures

cc: Parties of Record

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2018-202-E

In Re:	)	
	)	
Petition of Duke Energy Carolinas, LLC and	)	Duke Energy Carolinas, LLC's and Duke
Duke Energy Progress, LLC for Approval of	)	Energy Progress, LLC's Objection to
CPRE Queue Number Proposal, Limited	)	Interstate Renewable Energy Council, Inc.'s
Waiver of Generator Interconnection	)	Petition to Intervene
Procedures, and Request for Expedited Review	)	

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Pursuant to 10 S.C. Code Ann. Regs. 103-825 and other applicable rules of practice and procedure of the Public Service Commission of South Carolina (the "Commission"), Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") (collectively, "Duke Energy" or the "Companies") hereby object to the Interstate Renewable Energy Council, Inc.'s ("IREC") August 17, 2018 Petition requesting intervention in the above-captioned proceeding (the "Petition"). IREC fails to show that it has standing to intervene or to otherwise identify any personal stake or interest in this complaint proceeding. Therefore, the Commission should deny the Petition.

**BACKGROUND**

On June 19, 2018, Duke Energy filed a petition (the "Duke Energy Petition") requesting approvals related to the processing of Interconnection Requests for Interconnection Customers that elect to participate in the upcoming Competitive Procurement of Renewable Energy Program ("CPRE Program") request for proposal solicitation ("RFP") process. Specifically, the Duke Energy Petition requests limited waiver of certain provisions of the South Carolina Generator Interconnection Procedures, Forms, and Agreements ("SC GIP") as adopted in Docket No. 2015-

362-E to enable developers of utility-scale solar generating facilities in South Carolina (“SC Solar Generators”) an equal opportunity to participate in Duke Energy’s upcoming CPRE Program RFP process.

On August 17, 2018, IREC filed the Petition requesting intervention in this proceeding. According to the Petition, IREC is a national advocacy organization whose purpose is to “increase consumer access to sustainable energy and energy efficiency through independent fact-based policy leadership, quality workforce deployment, and consumer empowerment.” Petition, at 1. The Petition states that IREC’s bylaws authorize it “to represent the interests of residential and small-commercial customers...” Petition, at 2. IREC identifies that it was involved in the 2015 stakeholder process that led to the adoption of SC GIP and asserts that it will leverage its “knowledge of South Carolina’s policies in particular, and state and federal policies in general, to provide useful, nationally based insight into resolution of this matter.” Petition, at 4. As explained below, IREC’s asserted interests in this proceeding are not sufficient to establish standing.

### **ARGUMENT**

IREC fails to meet the threshold requirements to be granted intervention in this proceeding, as IREC lacks the requisite standing. “The grant or denial of a petition to intervene is within the sound discretion of the Commission, however, such discretion is bound by guiding principles and factors. One such principle is that a party generally must have standing to intervene.” Commission Order No. 2010-221 issued Mar. 16, 2010 in Docket No. 2009- 489-E (citing *Ex Parte Gov’t Employee’s Ins. Co.*, 373 S.C. 132, 138, 644 S.E.2d 699, 802 (2007)). A party seeking to establish standing must prove the “irreducible constitutional minimum of standing,” which consists of three elements: (1) the petitioner must have suffered an injury in fact; (2) the injury and the conduct complained of must be causally connected; and (3) it must be likely, rather than merely speculative,

that the injury will be redressed by a favorable decision. *Sea Pines Ass'n for the Prot. of Wildlife v. South Carolina Dep't of Natural Res. & Cmty. Servs. Assocs., Inc.*, 345 S.C. 594, 601, 550 S.E.2d 287, 291 (2001). An “injury in fact” has been defined as “an invasion of a legally protected interest” which is “concrete and particularized” and “actual or imminent,” not “conjectural or hypothetical.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992). In order for the injury to be particularized, it must affect the petitioner in a personal and individual way. *Sea Pines*, 345 S.C. at 601, 550 S.E.2d at 291. A party petitioning to intervene has the burden to show a “particularized harm.” *Id.*

IREC lacks standing because it will not suffer any injury—or be impacted in any way—if the Companies’ Petition to waive certain sections of SC GIP is approved. As a non-profit advocacy organization, IREC may be generally interested in the Companies’ implementation of the South Carolina interconnection procedures for purposes of the CPRE Program RFP process; however, such a generalized interest is not sufficient to constitute an injury that is “concrete and particularized” and “actual or imminent.” Moreover, IREC’s stated interest in providing “useful, nationally based insight into resolution of this matter” does not create any discrete interest or injury in fact, and thus creates no basis for establishing standing. In similar circumstances, the Commission has previously denied intervention, holding that “while [an intervenor] may have some interest in the [proceeding] and may even have information which the Commission might find useful, it has not articulated a legally recognized basis for standing.” Commission Order No. 2013-911 issued Dec. 18, 2013 in Docket No. 2013-392-E (emphasis added); *see also* Commission Order 2010-221 (denying a petition to intervene for lack of standing in a rate case where petitioner was not a customer of the utility and therefore did not have a “personal stake” in the case).

The Petition does not describe a specific interest in the Companies’ utility operations in South Carolina—either on behalf of a retail customer served by the Companies or as an Interconnection

Customer under the SC GIP. IREC speculates in the Petition that waiver of portions of the interconnection procedures “may have the effect of increasing interconnection timelines and costs for distributed generation projects in South Carolina. Such increases in timelines and costs would directly impact the interests of the consumers IREC represents.” Petition, at 3-4 (emphasis added). However, IREC is not a customer served by Duke Energy. Nor is IREC an Interconnection Customer of Duke Energy. Therefore, IREC does not have a personal stake in the outcome of Duke Energy’s Petition. *See Comments of the Interstate Renewable Energy Council, Inc*, Docket No. 2015-362-E, at 2 (Nov. 23, 2015) (“Though we promote the creation of robust, competitive clean energy markets, IREC does not have a financial stake in those markets.”) (emphasis added).

Even if IREC had a personal stake in the proceeding, its alleged injuries are far too speculative to confer standing. IREC’s Petition provides no factual basis for its assertion that Duke Energy’s requested waivers could result in increases in interconnection timelines or costs for the smaller residential and commercial Interconnection Customers that IREC seeks to represent. To the contrary, the Duke Energy Petition to the Commission in the above-captioned docket explains that the CPRE Program is available to large developers of solar Generating Facilities and other renewable energy resources, not smaller residential and commercial customers. *See Duke Energy Petition*, Docket No. 2018-202-E, at 9 (June 18, 2018) (“[T]he CPRE Program...targets larger, more cost-effective projects generally seeking interconnection to the utility’s Transmission System.”). IREC has failed to articulate a “personal stake” in the outcome of the decision and assert interests in the subject matter of the suit that are “too contingent, hypothetical, or improbable to support standing.” *See Duke Power Co. v. S.C. Public Service Comm’n*, 284 S.C. 81, 98, 326 S.E.2d 395, 405 (1985).

Not only are IREC’s allegations of injuries speculative, they are also misleading. While IREC is a self-proclaimed representative of consumer interests, IREC does not actually represent any consumers. An association cannot create standing simply through proclamations in its bylaws;

instead, it must represent tangible interests. IREC has zero members anywhere, much less in South Carolina. See *Interstate Renewable Energy Council, Inc.’s Reply in Support of Petition to Intervene*, Docket No. 2017-332-E, at 9 (Jan. 12, 2018) (“IREC is not a membership organization...”) (emphasis added). Without any members and without any financial stake in the outcome of this proceeding, IREC also does not possess associational standing. “The three-part test for associational standing requires that an association’s members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization’s purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Carnival Corp. v. Historic Ansonborough Neighborhood Ass’n*, 407 S.C. 67, 76, 753 S.E.2d 846, 851 (2014). IREC cannot (and its Petition to the Commission does not) identify any actual members of its organization who may be impacted by the outcome of this proceeding, and therefore cannot establish standing on behalf of its members.

IREC alleges that it has a direct and substantial interest in Duke Energy’s “proposed waiver of the interconnection procedures it worked to develop.” Petition, at 2. The fact that IREC participated in the 2015 generic stakeholder process in Docket No. 2015-362-E to revise the SC GIP as required by Act 236 has no bearing on whether IREC now has standing to intervene in this proceeding. Such prior connection to a previously concluded general rulemaking matter—notably where IREC’s participation and intervention was unopposed—does not in any way create the requisite standing to support granting intervention in the current Complaint action. A real party in interest possessing standing is “distinguished from one who only has...a connection with the action.” *Ex Parte Gov’t Employee’s Ins. Co.*, 373 S.C. at 138, 644 S.E.2d at 702. The instant proceeding is not a generic proceeding to amend the SC GIP, but is a limited waiver proceeding applicable only to Duke Energy.

In sum, because IREC has failed to establish that it has suffered any injury sufficient to constitute standing in this proceeding, it fails to meet the threshold standing requirement in order to intervene, and its Petition should be denied.

## **CONCLUSION**

WHEREFORE, for the reasons set forth herein, Duke Energy requests that the Petition be denied.



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Duke Energy Progress, LLC



BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2018-202-E

In Re:	)	
	)	
Petition of Duke Energy Carolinas, LLC and	)	CERTIFICATE OF SERVICE
Duke Energy Progress, LLC for Approval of	)	
CPRE Queue Number Proposal, Limited	)	
Waiver of Generator Interconnection	)	
Procedures, and Request for Expedited Review	)	
	)	
	)	

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This is to certify that I, Thomas J. Reed-Hall, a paralegal with the Duke Energy Corporation, have this day caused to be served upon the person(s) named below the Objection to Interstate Renewable Energy Council, Inc.'s Petition to Intervene on behalf of Duke Energy Carolinas, LLC and Duke Energy Progress, in the foregoing matter via electronic mail addressed as indicated below:

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